

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ZACARIAS MOUSSAOUI,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS

Defendant.

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Case No. CIV-14-1201-M

REPORT AND RECOMMENDATION

Plaintiff, a prisoner appearing *pro se*, has filed this action under 42 U.S.C. 1983 alleging various violations of his constitutional rights. Pursuant to an order entered by Chief United States District Judge Vicki Miles-LaGrange, this matter has been referred to the undersigned magistrate judge for initial proceedings consistent with 28 U.S.C § 636(b)(1)(B). On April 27, 2015, the undersigned entered an order advising Plaintiff that he must either pay the \$400.00 filing fee in accordance with § 1914 and LCvR3.2 or submit a motion for leave to proceed *in forma pauperis* (ECF No. 10). Additionally, Plaintiff was provided a copy of the Court's approved application (motion) to proceed *in forma pauperis*. Plaintiff's deadline to cure the deficiencies designated was May 18, 2015. Plaintiff was further cautioned that failure to comply with the Court's Order may result in the dismissal of the action without prejudice to re-filing.

As of this date, Plaintiff has failed to pay the filing fee or submit an application (motion) to proceed *in forma pauperis* as required. A review of the court file reveals that the due date has passed without Plaintiff curing the deficiencies, showing good cause for his failure to do so, or requesting an extension of time to comply with the Court's order. In fact, Plaintiff has not responded to the Court's order in any way.

The undersigned finds that Plaintiff's failure to comply with the Court's Order, in light of the Court's right and responsibility to manage its cases, warrants dismissal of this action without prejudice. *See Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe County Justice Center*, 492 F.3d 1158, 1161 n.2, 1162 (10th Cir. 2007) (*sua sponte* dismissal for failure to comply with Court's orders permitted under federal rules, and court need not follow any particular procedures in dismissing actions without prejudice for failure to comply).

RECOMMENDATION

In light of the forgoing, the undersigned hereby recommends that this action be **DISMISSED** without prejudice. Additionally, the undersigned recommends that Plaintiff's Motion to Appoint Counsel (**ECF No. 2**) and Motion for Order (**ECF No. 8**) be **DENIED**.

Plaintiff is advised that any objections to this Report and Recommendation must be filed with the Clerk of this Court on or before **June 15, 2015**, in accordance with 28 U.S.C § 636 and Federal Rule of Civil Procedure 72. Failure to make timely objection to this Report and Recommendation waives the right to appellate review of

both the factual findings and the legal issues decided herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

This Report and Recommendation **disposes of all issues** referred to the Magistrate Judge in the captioned matter.

ENTERED on May 26, 2015.



SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE